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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,816	07/02/2003	Fred O. Hartmann	G351.12-0001	3853
43662	7590	08/08/2006	EXAMINER	
DFAULT LAW FIRM, P.C. 920 LUMBER EXCHANGE BUILDING TEN SOUTH FIFTH STREET MINNEAPOLIS, MN 55402			ADAMS, GREGORY W	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,816

Applicant(s)

HARTMANN ET AL.

Examiner

Gregory W. Adams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4, 6, 7, 9, 11, 13-20, 22, 23, 25, 27-32 and 34-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4, 6, 7, 9, 11, 13-20, 22, 23, 25, 27-32 and 34-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

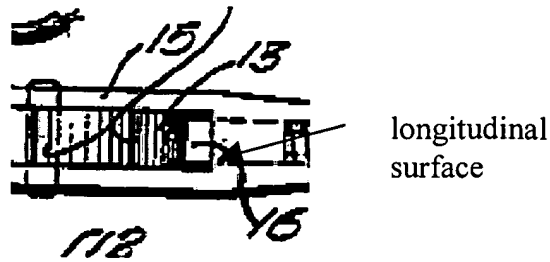
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7 & 28-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Howe (US 1,582,045) (previously cited).

With respect to claims 7 & 28-29, Howe discloses a hand-truck comprising a platform connected to a unitary rigid handle 22, 23, channel 17-19, locking plate 28 connected to platform 10, first and second hinge members 20, and first and second stops 25 wherein a handle having handle bars 23 is positionable between a stowed position, pivotable position and a locked position and is accessible at each position to operatively maneuver a hand-truck.

Claim 27 & 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Welter (US 2,725,946). Welter discloses a hand truck having a platform, wheels, T-bar 18, tongue member 16 parallel to a handle 15 lower portion and engaging a locking plate 13, 14 as shown below.



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Welter (US 2,725,946) in view of Howe (US 1,582,045).

With respect to claim 4, Welter does not disclose a channel member. Howe discloses a hand-truck comprising a platform connected to a unitary rigid handle 22, 23, channel 17-19, locking plate 28 connected to platform 10, first and second hinge members 20, and first and second stops 25 wherein a handle having handle bars 23 is positionable between a stowed position, pivotable position and a locked position and is accessible at each position to operatively maneuver a hand-truck. Howe teaches that a recessed handle allows longer objects, e.g. overhang a platform, can be placed on a platform such that "steering and propelling is done by manipulating the object itself."

Page 2/L11-26. Therefore, it would have been obvious to one having ordinary skill in the

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art at the time the invention was made to modify the hand-truck of Welter to include a channel, as per the teachings of Howe, to handle overhanging loads.

2. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Welter (US 2,725,946) in view of Goral (US 5,078,415) (previously cited).

With respect to claim 6, Welter discloses a hand-truck comprising a platform connected to a unitary rigid handle 22, 23, channel 17-19, locking plate 28 connected to platform 10, first and second hinge members 20, and first and second stops 25 wherein a handle having handle bars 23 is positionable between a stowed position, pivotable position and a locked position and is accessible at each position to operatively maneuver a hand-truck. Welter does not disclose support members extending down from a platform parallel to a channel member. Goral discloses support members 3 which extend down an equidistance as a central channel 5 to allow heavier loads placed on a platform, e.g. gas cylinders, to be lifted by heavy equipment such as fork lifts. Cols. 1-2. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Welter's hand-truck to include support members, as per the teachings of Goral, to lift heavy loads such as gas cylinders.

3. Claims 9 & 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welter (US 2,725,946) in view of Masserant et al. (US 6,199,878).

With respect to claims 9 & 11, Welter does not disclose box-like guard members. Masserant et al. disclose box-like guards 27a, 27b around wheels to house a wheel-braking and provide an opening through a hand-truck 11 wheel 13a, 13b may engage the ground. Therefore, it would have been obvious to one having ordinary skill in the art

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at the time the invention was made to modify the wheels of Welter to include box-like guards, as per the teachings of Masserant et al., to house a wheel brake.

4. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Welter (US 2,725,946) in view of Hanaoka (US 4,655,466).

With respect to claim 13, Welter does not disclose a foot-brake. Hanaoka discloses a hand-truck having a foot brake 28 "which is grounded during loading operation and is lifted away from the ground during transportation operation." C3/L49-52. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Welter to include a foot-brake, as per the teachings of Hanaoka, to assist a hand –truck during loading operation.

5. Claims 14, 17, 28 & 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welter (US 2,725,946) in view of Howe (US 1,582,045).

With respect to claims 14, 17, 28 & 34-36, Welter discloses a hand truck having a platform, wheels, T-bar 18, tongue portion 16 spaced-apart, extending from and parallel to a rigid handle member handle portion 15 and engaging a locking plate 13, 14, first and second space apart hinge members and does not disclose a channel member, unitary rigid member or support members.

Howe discloses a hand-truck comprising a platform connected to a unitary rigid handle 22, 23, channel 17-19, locking plate 28 connected to platform 10, first and second hinge members 20, and first and second stops 25 wherein a handle having handle bars 23 is positionable between a stowed position, pivotable position and a locked position and is accessible at each position to operatively maneuver a hand-truck.

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Howe teaches that a recessed handle allows longer objects, e.g. overhang a platform, can be placed on a platform such that "steering and propelling is done by manipulating the object itself." Page 2/L11-26. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the hand-truck of Welter to include a channel, as per the teachings of Howe, to handle overhanging loads.

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Welter (US 2,725,946) in view of Howe (US 1,582,045) and Hanaoka (US 4,655,466).

With respect to claim 15, Welter does not disclose a foot-brake. Hanaoka discloses a hand-truck having a foot brake 28 "which is grounded during loading operation and is lifted away from the ground during transportation operation." C3/L49-52. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Welter to include a foot-brake, as per the teachings of Hanaoka, to assist a hand -truck during loading operation.

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Welter (US 2,725,946) in view of Howe (US 1,582,045) and Masserant et al. (US 6,199,878).

With respect to claim 16, Welter does not disclose box-like guard members. Masserant et al. disclose box-like guards 27a, 27b around wheels to house a wheel-braking and provide an opening through a hand-truck 11 wheel 13a, 13b may engage the ground. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the wheels of Welter to include box-like guards, as per the teachings of Masserant et al., to house a wheel brake.

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8. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welter (US 2,725,946) in view of Howe (US 1,582,045) and Goral (US 5,078,415) (previously cited).

With respect to claims 18-19, Welter does not support members. Goral discloses support members 3 which extend down an equidistance as a central channel 5 to allow heavier loads placed on a platform, e.g. gas cylinders, to be lifted by heavy equipment such as fork lifts. Cols. 1-2. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Welter's hand-truck to include support members, as per the teachings of Goral, to lift heavy loads such as gas cylinders.

9. Claims 20, 22 & 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welter (US 2,725,946) in view of Howe (US 1,582,045) and Goral (US 5,078,415) (previously cited).

With respect to claims 20, 22 & 37, Welter discloses a hand truck having a platform, wheels, T-bar 18, tongue portion 16 spaced-apart, extending from and parallel to a rigid handle member handle portion 15 and engaging a locking plate 13, 14, first and second space apart hinge members and does not disclose a channel member, unitary rigid member or support members.

Howe discloses a hand-truck comprising a platform connected to a unitary rigid handle 22, 23, channel 17-19, locking plate 28 connected to platform 10, first and second hinge members 20, and first and second stops 25 wherein a handle having handle bars 23 is positionable between a stowed position, pivotable position and a

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locked position and is accessible at each position to operatively maneuver a hand-truck. Howe teaches that a recessed handle allows longer objects, e.g. overhang a platform, can be placed on a platform such that "steering and propelling is done by manipulating the object itself." Page 2/L11-26. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the hand-truck of Welter to include a channel, as per the teachings of Howe, to handle overhanging loads.

Goral discloses support members 3 which extend down an equidistance as a central channel 5 to allow heavier loads placed on a platform, e.g. gas cylinders, to be lifted by heavy equipment such as fork lifts. Cols. 1-2. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Welter's hand-truck to include support members, as per the teachings of Goral, to lift heavy loads such as gas cylinders.

10. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Welter (US 2,725,946) in view of Howe (US 1,582,045), Goral (US 5,078,415) (previously cited) and Hanaoka (US 4,655,466).

With respect to claim 23, Welter does not disclose a foot-brake. Hanaoka discloses a hand-truck having a foot brake 28 "which is grounded during loading operation and is lifted away from the ground during transportation operation." C3/L49-52. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Welter to include a foot-brake, as per the teachings of Welter, to assist a hand -truck during loading operation.

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11. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Welter (US 2,725,946) in view of Howe (US 1,582,045), Goral (US 5,078,415) (previously cited) and Masserant et al. (US 6,199,878).

With respect to claim 25, Welter does not disclose box-like guard members. Masserant et al. disclose box-like guards 27a, 27b around wheels to house a wheel-braking and provide an opening through a hand-truck 11 wheel 13a, 13b may engage the ground. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the wheels of Welter to include box-like guards, as per the teachings of Masserant et al., to house a wheel brake.

12. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Howe (US 1,582,045) in view of Goral (US 5,078,415) (previously cited).

With respect to claim 30, Howe discloses a hand-truck comprising a platform connected to a unitary rigid handle 22, 23, channel 17-19, locking plate 28 connected to platform 10, first and second hinge members 20, and first and second stops 25 wherein a handle having handle bars 23 is positionable between a stowed position, pivotable position and a locked position and is accessible at each position to operatively maneuver a hand-truck. Howe does not disclose support members extending down from a platform parallel to a channel member. Goral discloses support members 3 which extend down an equidistance as a central channel 5 to allow heavier loads placed on a platform, e.g. gas cylinders, to be lifted by heavy equipment such as fork lifts. Cols. 1-2. Therefore, it would have been obvious to one having ordinary skill in the art at the

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time the invention was made to modify Howe's hand-truck to include support members, as per the teachings of Goral, to lift heavy loads such as gas cylinders.

13. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Howe (US 1,582,045) in view of Hanaoka (US 4,655,466).

With respect to claims 31, Howe does not disclose a foot-brake. Hanaoka discloses a hand-truck having a foot brake 28 "which is grounded during loading operation and is lifted away from the ground during transportation operation." C3/L49-52. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Howe to include a foot-brake, as per the teachings of Hanaoka, to assist a hand –truck during loading operation.

14. Claim 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howe (US 1,582,045) in view of Masserant et al. (US 6,199,878).

With respect to claim 32, Howe does not disclose box-like guard members. Masserant et al. disclose box-like guards 27a, 27b around wheels to house a wheel-braking and provide an opening through a hand-truck 11 wheel 13a,13b may engage the ground. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the wheels of Howe to include box-like guards, as per the teachings of Masserant et al., to house a wheel brake.

15. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Howe (US 1,582,045) in view of Welter (US 2,725,946).

With respect to claim 34, Howe does not disclose tongue member. Welter discloses a hand truck having a platform, wheels, T-bar 18, tongue member 16 parallel

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to a handle 15 lower portion and engaging a locking plate 13, 14 such that a hand-truck may be manipulated in "crowded quarters, such as in warehouses, holds of vessels, boxcars or freight-carrying aircraft." C1/L17-25. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Howe to include tongue member, as per the teachings of Welter, for maneuverability in tight quarters.

Response to Arguments

Applicant's arguments filed April 27, 2006 have been fully considered but they are not persuasive. The Examiner does not agree with Applicant's interpretation of "substantially perpendicular" or "space-apart".

With respect to claims 7, 28 & 29 Applicant argues that Howe's apparatus is not "substantially vertical". The Examiner disagrees with this interpretation of Howe in light of Applicant's use of substantially vertical in the Specification which define substantially vertical as "for the most part vertical" which does not preclude off by some extent and also defines substantially vertical as a "slight variation in either direction, up to about 15 degrees from vertical", either definition being "well within the scope of the present invention." Applicant's Specification page 7, lines 25-29. Applicant's April 27, 2006 arguments do not assist in the analysis. If Applicant means to imply --a handle when in a locked, extended position forms a 90-degree angle with a plane defined by a surface of said platform--, this is neither taught nor disclosed by claims 7, 28-29 or Howe. Thus, and regardless of Howe's hinge positioning for the purposes of determining verticality Howe's handle will reach a substantially vertical position as defined by Applicant. In

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addition, Howe's handle is positioned beyond an edge, e.g. the lower edge of said platform.

With respect to claims 14, 20, 22, 27, & 34 Applicant argues that cited prior art does not disclose a slidable position. In the context of Applicant's claims, slidable means that moment when the handle moves from a locked position to a stowed position, comprising all the movement between the two points. Because Applicant's specification does not enlighten as to slidable, its presumed to include that length of movement when Applicant's handle moves from a upright to horizontal in order to align with the channel. The cited prior discloses similar movement in moving from a vertical position to a horizontal position comprising sliding. Further, "slidable position" evokes a position at a moment in time or point of reference not motion. Further, Welter's locking plate 13 places a tongue member 16 between a locking plate and handle where "between" is defined as "connecting spatially" (www.dictionary.com), without which the handle could not be locked.

With respect to claims 14, 20 & 34, the cited prior art discloses "spaced apart" insomuch as the tongue member extends from a handle 17 as shown in FIG. 1, parallel and downward.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th., 8:00-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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